

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORIE DUFF)	
)	
PLAINTIFF)	
)	
v.)	CIVIL ACTION NO. 4:20-CV-03430
)	
FRONTIER AIRLINES, INC. AND ABM)	JURY DEMANDED
AVIATION, INC.)	
)	
DEFENDANTS)	

**PLAINTIFF’S OPPOSED SECOND MOTION FOR
LEAVE TO FILE AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, LORI DUFF (“Plaintiff”) requesting leave to file her Second Amended Complaint.

I. Introduction

1. Plaintiff Lori Duff is an individual residing in Harris County, Texas.
2. Defendants have all appeared. Defendant DAL Global is unopposed; Defendants Frontier Airlines, Inc. and ABM Aviation, Inc. have indicated they are opposed to the granting of this motion. Plaintiff has asserted personal injury claims against Defendants related to a fall Plaintiff suffered while being pushed in a wheelchair while departing a Frontier airplane by staff employed by ABM Aviation at Houston Intercontinental Airport.
3. The Court recently entered a new scheduling order based upon the agreement of the parties and trial in this matter is now in December 2022. No depositions have occurred yet, and only initial written discovery has been completed.

II. Motion for Leave

4. Unless the opposing party can show prejudice, bad faith, or undue delay, a court should grant leave to file an amended pleading. *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1962). This is the second motion for leave to amend filed by Plaintiff. Defendants have indicated they are opposed to the granting of the motion but have not indicated a basis for said opposition.

5. Plaintiff has resolved her claims with Defendant DAL Global (with a Motion to Dismiss said Defendant filed contemporaneously with this Motion for Leave), and the amended petition removes the claims as to DAL Global. Further, Plaintiff has amended slightly the factual assertions and the sustained injuries of Plaintiff, as her care is ongoing (with a surgery scheduled in the near term). To ensure the injuries are properly identified in the pleadings, Plaintiff requests this opportunity to amend.

6. Defendants will not be prejudiced by this amendment as it clarifies claims previously made, simplifies the claims by removing the settled party and ensures that the parties have proper notice of the claims asserted.

7. A copy of the proposed pleading is attached hereto as Exhibit “A”.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that the Court grant his unopposed motion for leave and for such other relief at law or equity to which Plaintiff may be entitled.

Respectfully Submitted,

THE FORSBERG LAW FIRM, P.C.

BY: /s/ Kevin Forsberg
KEVIN A. FORSBERG
State Bar No.: 24009204
15899 Hwy 105 W
Montgomery, Texas 77356
936-588-6226
936-588-6229 Facsimile
Kevin@forsberglaw.net

CERTIFICATE OF SERVICE

This is to certify that on December _15_, 2021, a true and correct copy of the foregoing documents was served by US Mail with a copy by efile on:

Marc Michael Rose
Rose Law Group, PLLC
777 Main Street, Suite 600
Fort Worth, Texas 76102
Telephone: (817) 887-8118
Email: marc@roselg.com

COUNSEL FOR DEFENDANT ABM AVIATION, INC.

Patrick J. Comerford
Rigby Slack Lawrence Berger Akinc Pepper & Comerford
3500 Jefferson Street, Suite 330
Austin, Texas 78731
Telephone: (512) 782-2054
E-mail: pcomerford@rigbyslck.com

COUNSEL FOR DEFENDANT FRONTIER AIRLINES, INC.

_____/s/ Kevin A. Forsberg_____
KEVIN A. FORSBERG